IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 20971 of 2002

Between:

Abdul Majeed Khan, S/o.Mohd. Jaffar Khan,
R/o.H.No.2-3-23, Shah Bazar Lane, Gandhi Nagar,
Mahaboobnagar, Mahaboobnagar District.

..... PETITIONER

AND

The Director of PS4, Army Head Quarter Adjutant General,
Branch Personnel Services Directorate [AG/PS-4] A Wing,

Sena Bhavan, New Delhi-110 011.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of *Writ of Certiorari* and quash the proceedings dated 9-6-2002 vide No.B/4/1052/A/G/PS-4/P, issued by the respondent herein and to consequently direct the respondent herein to release the disability pension from the date of Medical discharge till the date of realisation and to continue further and also all consequential benefits to the petitioner.

Counsel for the Petitioner: MR MOHD.AFZAL

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY

(ASST.SOLICITOR GEN.)

The Court made the following:

ORDER:

This writ petition has been filed for quashing the proceedings dated 09.06.2002 vide No.B/4/1052/A/G/PS-4/P, issued by the respondent and consequently direct the respondent to release the disability pension from the date of medical discharge till the date of realization.

2. It is the case of the petitioner that he has joined in the Indian Army on 19.7.1958 as Craftsmen Vehicle Mechanic, EME Crops and during the course of employment in the Army service, while he was conducting peaceful Craftsmen Vehicle Mechanic as solider at several places on Army duty, suddenly he fell due to sudden loosing power of one right hand due to downfall of nervous system, and his right hand completely fell powerless and unable to function permanently. The doctors of the hospital of the Army declared unfit for further services and they mentioned in their report that the disability was caused due to 'Hysterical Monoplogea, R+ Upper Extrenhito and that he was discharged from the duty on medical grounds in the year 1964. He further stated that when he was discharged on medical grounds, he was paid only Rs.255.75ps. as gratuity. But, the respondent did not pay the disability compensation amount even though he sustained 50% disability in the course of his employment i.e. his right hand completely peralised due to 'Hysterical Monoplogia'. As he was not paid the disability pension, the present writ petition has been filed.

3. A detailed counter-affidavit has been filed stating that the entire service register and the medical documents of the petitioner have already been destroyed by burning being a non-pensionable case, after expiry of stipulated retention period of old record/documents in terms of Annexure R-1. As per rules the petitioner is not entitled for any disability pension.

4. The writ petition is liable to be dismissed mainly on two grounds. Firstly, it is barred by limitation and secondly, after lapse of 38 years the petitioner has come forward to this Court at a belated stage. This Court expects some reasonable explanation for not coming to the court in time. No valid and cogent reasons are assigned in the affidavit to show as to why he could not be able to

come to the Court at the relevant time. Even on merits also, it is in para 173 of Pension Regulations for the Army, 1961 (Part-I), which reads thus:

> "Unless otherwise specifically provided, a disability pension may be granted to an individual who is invalided from service on account of a disability which is attributable to or aggravated by military service and is assessed at 20 percent or over.
>
> The question whether a disability is attributable to or aggravated by military service shall be determined under the rules in appendix II."

5. Therefore, the *prima facie* that the petitioner has to show that he was discharged from the military service on medical grounds for disability which is attributable to or aggravated by the military service. Even in the affidavit, it is not stated that the disability sustained by him is attributable to or aggravated by the military service. No other document was filed to show that the disability sustained by the petitioner is attributable to or aggravated by the military service. Therefore, the writ petition is totally devoid of merits and it is liable to be dismissed.

With the above observation, the writ petition is dismissed. No order as to costs.

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(K.C. BHANU, J)

Date: 08.06.2005.

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Director of PS4, Army Head Quarter Adjutant General,
Branch Personnel Services Directorate [AG/PS-4] A Wing,

Sena Bhavan, New Delhi-110 011.

2. 2 CD copies

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